

PART 20—GUIDES FOR THE REBUILT, RECONDITIONED, AND OTHER USED AUTOMOBILE PARTS INDUSTRY

Sec.

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Authority: 15 U.S.C. 41–58.

§ 20.0 Scope and purpose of the guides.

(a) The Guides in this part apply to the manufacture, sale, distribution, marketing and advertising (including advertising in electronic format, such as on the Internet) of parts that are not new, and assemblies containing such parts, that were designed for use in automobiles, trucks, motorcycles, tractors, or similar self-propelled vehicles, regardless of whether such parts or assemblies have been cleaned, repaired, reconstructed, or reworked in any other way (industry product or product). Industry products include, but are not limited to, airbags, alternators and generators, anti-lock brake systems, brake cylinders, carburetors, catalytic converters, differentials, engines, fuel injectors, hybrid drive systems and hybrid batteries, navigation and audio systems, power steering pumps, power window motors, rack and pinion units, starters, steering gears, superchargers and turbochargers, tires, transmissions and transaxles, and water pumps.

(b) These guides set forth the Federal Trade Commission's current views about the manufacture, sale, distribution, and advertising of industry products. The guides help businesses avoid making claims that are unfair or deceptive under Section 5 of the FTC Act, 15 U.S.C. 45. They do not confer any rights on any person and do not operate to bind the FTC or the public. The Commission, however, can take action under the FTC Act if a business makes a claim inconsistent with the guides. In any such enforcement action, the Commission must prove that the challenged act or practice is unfair or deceptive in violation of Section 5 of the FTC Act.

§ 20.1 Deception generally.

(a) It is unfair or deceptive to represent, directly or by implication, that any industry product is new or unused when such is not the fact, or to misrepresent the current condition, or extent of previous use, reconstruction, or repair of any industry product.

(b) It is unfair or deceptive to offer for sale or sell any industry product

without disclosing, clearly and conspicuously, in advertising, in promotional literature, on invoices, and on the product's packaging that the item is an industry product. Additionally, it is unfair or deceptive to offer for sale or to sell any industry product that appears new or unused without disclosing on the product itself that it is an industry product, using appropriate descriptive terms with sufficient permanency to remain visible for a reasonable time after installation. Examples of appropriate descriptive terms include, but are not limited to “Used,” “Secondhand,” “Repaired,” “Relined,” “Reconditioned,” “Rebuilt,” or “Remanufactured.” If the term “recycled” is used, it should be used in a manner consistent with the requirements for that term set forth in the Guides for the Use of Environmental Marketing Claims, 16 CFR 260.7(e). On invoices to the trade only, the disclosure may be by use of any number, mark, or other symbol that is clearly understood by industry members as meaning that the part so marked on the invoices is not new.

(c) It is unfair or deceptive to place any means or instrumentality in the hands of others so that they may mislead consumers as to the previous use of industry products.

§ 20.2 Deception as to the identity of a rebuilder, remanufacturer, reconditioner, reliner, or other reworker.

(a) It is unfair or deceptive to misrepresent the identity of the rebuilder, remanufacturer, reconditioner, reliner or other reworker of an industry product.

(b) If the identity of the original manufacturer of an industry product, or the identity of the manufacturer for which the product was originally made, is revealed and the product was rebuilt, remanufactured, reconditioned, relined, or otherwise reworked by someone else, it is unfair or deceptive to fail to disclose such fact wherever the original manufacturer is identified in advertising or promotional literature concerning the industry product, on the container in which the product is packed, and on the product itself, in close conjunction with, and of the same permanency and conspicuousness as, the disclosure that the product is not new. Examples of such disclosures include:

- (1) Disclosure of the identity of the rebuilder: “Rebuilt by John Doe Co.”
- (2) Disclosure that the industry product was rebuilt by an independent rebuilder: “Rebuilt by an Independent Rebuilder.”
- (3) Disclosure that the industry product was rebuilt by someone other

than the manufacturer identified: “Rebuilt by other than XYZ Motors.”

(4) Disclosure that the industry product was rebuilt for the identified manufacturer: “Rebuilt for XYZ Motors.”

§ 20.3 Misrepresentation of the terms “rebuilt,” “factory rebuilt,” “remanufactured,” etc.

(a) It is unfair or deceptive to use the word “Rebuilt,” or any word of similar import, to describe an industry product which, since it was last subjected to any use, has not been dismantled and reconstructed as necessary, all of its internal and external parts cleaned and made rust and corrosion free, all impaired, defective or substantially worn parts restored to a sound condition or replaced with new, rebuilt (in accord with the provisions of this paragraph) or unimpaired used parts, all missing parts replaced with new, rebuilt or unimpaired used parts, and such rewinding or machining and other operations performed as are necessary to put the industry product in sound working condition.

(b) It is unfair or deceptive to represent an industry product as “Remanufactured” or “Factory Rebuilt” unless the product was rebuilt as described in paragraph (a) of this section at a factory generally engaged in the rebuilding of such products.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–16339 Filed 7–11–14; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF STATE

22 CFR Part 96

[Public Notice 8792]

RIN 1400–AD45

Adoptions: Regulatory Change To Clarify the Application of the Accreditation Requirement and Standards in Cases Covered by the Intercountry Adoption Universal Accreditation Act

AGENCY: Department of State.

ACTION: Interim final rule; request for comments.

SUMMARY: This rule amends the Department of State (Department) rule on the accreditation and approval of adoption service providers in intercountry adoptions. The revisions reflect the requirement of the Intercountry Adoption Universal Accreditation Act of 2012 (UAA) that

the accreditation standards developed in accordance with the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Convention) and the Intercountry Adoption Act of 2000 (IAA), which previously only applied in Convention adoption cases, apply also in non-Convention adoption cases. Non-convention adoption cases are known as “orphan” cases, defined in the Immigration and Nationality Act (INA). This rule also revises the accreditation rule by referring to the Department of Homeland Security (DHS) Convention home study regulation and deleting obsolete references, such as any reference to temporary accreditation.

DATES: The effective date of this interim final rule is July 14, 2014. The Department will accept comments on the proposed regulation up to September 12, 2014.

ADDRESSES:

- *Internet:* You may view this interim final rule and submit your comments by visiting the Regulations.gov Web site at www.regulations.gov, and searching for docket number DOS–2014–0015.

- *Mail or Delivery:* You may send your paper, disk, or CD–ROM submissions to the following address: Comments on Proposed Rule 22 CFR Part 96, Office of Legal Affairs, Overseas Citizen Services, U.S. Department of State, CA/OCS/L, SA–17, Floor 10, Washington, DC 20522–1710.

- All comments should include the commenter’s name and the organization the commenter represents (if applicable). If the Department is unable to read your comment for any reason, the Department might not be able to consider your comment. Please be advised that all comments will be considered public comments and might be viewed by other commenters; therefore, do not include any information you would not wish to be made public. After the conclusion of the comment period, the Department will publish a final rule (in which it will address relevant comments) as expeditiously as possible.

FOR FURTHER INFORMATION CONTACT:

Office of Legal Affairs, Overseas Citizen Services, U.S. Department of State, CA/OCS/L, SA–17, Floor 10, Washington, DC 20522–1710; (202) 485–6079.

SUPPLEMENTARY INFORMATION:

Why is the Department promulgating this rule?

This rule clarifies that under the Intercountry Adoption Universal Accreditation Act of 2012 (UAA), signed into law January 14, 2013, and effective July 14, 2014, the accreditation

requirement and standards found in 22 CFR part 96 apply to any person (including non-profit agencies, for-profit agencies and individuals but excluding government agencies and tribal authorities), providing adoption services on behalf of prospective adoptive parents in an “orphan” intercountry adoption case described under section 101(b)(1)(F) of the Immigration and Nationality Act. Specifically, under Section 2 of the UAA “[t]he provisions of title II and section 404 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14901 et seq.), and related implementing regulations, shall apply to any person offering or providing adoption services in connection with a child described in section 101(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)(F)), to the same extent as they apply to the offering or provision of adoption services in connection with a Convention adoption.”

Title II of the Intercountry Adoption Act of 2000 (IAA) (Public Law 106–279) requires that any person providing adoption services in a Convention case be an accredited, approved, or an exempted adoption service provider, and section 404 imposes civil and criminal penalties for violations of the Act. On February 15, 2006 the Department of State published implementing regulations at 71 FR 8064, on the accreditation and approval of agencies and persons in accordance with the Convention and the IAA. The UAA extends that rule from Convention cases to “orphan” cases. This regulatory change includes a number of technical edits to facilitate interpretation of the regulatory requirements and clarify designated accrediting entities’ authority under the UAA and the IAA.

The Department is amending the regulation to make 22 CFR part 96, as affected by the UAA, easier to read. This rule will aid the accrediting entity applying the standards and adoption service providers required to comply with the standards. In particular, this rule adds references to the UAA where the IAA is referenced; adds a sentence concerning the UAA effective date; redefines “Central Authority” to include competent authorities, thereby clarifying how the term applies in countries that are not party to the Convention; redefines adoption records to include non-Convention case records and changes Section 96.25(b) concerning accrediting entity access to non-Convention records in cases subject to the UAA; defines the terms INA, IAA, and intercountry adoption; refers to “accreditation and approval” instead of “Convention accreditation and

approval;” revises Section 96.46(a)(4) to clarify that foreign supervised providers in non-Convention countries may not have a pattern of licensing suspensions relating to key Convention principles; and revises references to “Convention adoption,” “cases subject to the Convention,” “Convention case,” “Convention country,” and “Convention-related activity” to ensure that such references include non-Convention adoptions, activities, countries, and cases under the UAA.

Additionally, this rule corrects the references in 22 CFR 96.37(f)(2), and 96.47(a)(4) and (b), to refer to the correct Department of Homeland Security (DHS) definition of home study preparer and home study requirements. When the original rule was issued in 2006, DHS had not yet published its final rule concerning home studies in Convention cases. Thus, the 2006 State Department rule referred to the “orphan” home study requirements under 8 CFR 204.3(b) and (e), instead of the Convention home study requirements found in 8 CFR 204.301 and 311. This rule references the correct DHS regulation. The change clarifies that the home study must be prepared by an accredited agency, approved person, exempted provider, or a supervised provider. In addition, when the home study is not performed in the first instance by an accredited agency, then an accredited agency must review and approve it. The orphan and Convention home study requirements also differ concerning the required elements, applicable definitions, and the duty to disclose. The Department anticipates that DHS will publish specific guidance on how the Convention home study requirements will apply in orphan cases.

Finally, the rule amends 22 CFR Part 96 to delete obsolete provisions, including any references to temporary accreditation, deleting subpart N in its entirety. Under the IAA, temporary accreditation was only possible for a one- or two-year period following the entry into force of the Convention. Because the Convention entered into force for the United States on April 1, 2008, more than two years ago, temporary accreditation is no longer possible. The rule also deletes the section on “special provisions for agencies and persons seeking to be accredited or approved as of the time the Convention enters into force for the United States” and a reference to that section. Further, the rule revises requirements concerning “notification of accreditation and approval decisions” and “length of accreditation or approval period,” deleting provisions that

applied only during the transitional period to the Convention entering into force and clarifying that for purposes of the notification requirement the phrase “accreditation or approval decisions” refers to whether an application is granted or denied.

Cases that are grandfathered under Section 2(c) of the UAA are not affected by this rule. See the *Department’s adoption Web site* and the *DHS/USCIS Web site* for information on this grandfathering provision.

The Department invites comment on the edits to 22 CFR Part 96 described above.

Regulatory Analysis

Administrative Procedure Act

The Department is publishing this rule as an interim final rule based on its determination for good cause that delaying the effect of this rule during the period of public comment would be impractical, unnecessary and contrary to public interest under Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B). Publishing the revision now will allow the rule to be in effect on the date the UAA goes into effect. This will aid the accrediting entity in its accreditation and oversight function and avoid confusion among adoption service providers and other members of the public about how the accreditation standards apply in “orphan” intercountry adoption cases.

The Department will accept comments from the public for 60 days after publication.

Regulatory Flexibility Act/Executive Order 13272: Small Business

Consistent with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule clarifies the requirements imposed by the UAA and IAA on adoption service providers providing services in “orphan” intercountry adoption cases described under section 101(b)(1)(F).

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48, codified at 2 U.S.C. 1532) generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of \$100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments or the private sector.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121). This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and import markets.

Executive Order 12866

The Department of State has reviewed this proposed rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866, and has determined that the benefits of this final regulation justify its costs. The Department does not consider this rulemaking to be an economically significant action within the scope of section 3(f)(1) of the Executive Order.

The rule does not add any new legal requirements to Part 96 but reflects the changes affected by the UAA to apply these accreditation standards in orphan cases. The UAA and this rule benefit prospective adoptive parents, children, and birth families involved in the intercountry adoption process by ensuring that adoption service providers providing services in orphan cases are subject to the same accreditation standards and ongoing oversight and monitoring that apply in Convention cases.

Concerning the cost of the UAA, the Report from the Congressional Budget Office (CBO) on October 17, 2012, notes that the UAA imposes “a private sector mandate by requiring all providers of placement services for intercountry adoptions to be compliant with the accreditation standards of the Hague Convention.” The report notes, further, that “[t]he initial fees for obtaining accreditation can range between \$10,000 and \$16,000 depending on the size and annual revenue of the entity seeking accreditation. Annual fees to maintain accreditation are less than \$1,000 on average, but are also subject to change based on the revenue of the entity. The cost of liability insurance for adoption agencies varies from state to state and can range between \$10,000 and \$50,000 per year.” Overall, CBO concluded: “Based on information gathered from industry professionals, the Department of Health and Human Services, and an

accreditation agency, the number of entities that would be affected is relatively small. Therefore, CBO estimates that the aggregate cost of the mandate to the private sector would fall below the annual threshold established in UMRA (\$146 million in 2012, adjusted annually for inflation).”

The Council on Accreditation (COA), the accrediting entity designated by the Department, reports that approximately forty new agencies have applied for accreditation since the UAA became law in January of 2013. This number is much fewer than COA had anticipated.

Executive Orders 12372 and 13132: Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor will the rule have federalism implications warranting the application of Executive Orders 12372 and No. 13132.

Executive Order 12988: Civil Justice Reform

The Department has reviewed the regulations in light of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13563: Improving Regulation and Regulatory Review

The Department has considered this rule in light of Executive Order 13563, dated January 18, 2011, and affirms that this regulation is consistent with the guidance therein.

Paperwork Reduction Act

This rule does not impose information collection requirements subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 96

Adoption, child welfare, children immigration, foreign persons.

For the reasons stated in the preamble, the Department of State amends 22 CFR part 96 as follows:

PART 96—INTERCOUNTRY ADOPTION ACCREDITATION OF AGENCIES AND APPROVAL OF PERSONS

■ 1. Revise the authority citation for part 96 to read as follows:

Authority: The Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (done at the Hague, May 29, 1993), S. Treaty Doc. 105–51 (1998), 1870 U.N.T.S. 167 (Reg. No. 31922 (1993));

The Intercountry Adoption Act of 2000, 42 U.S.C. 14901–14954; The Intercountry Adoption Universal Accreditation Act of 2012, Pub. L. 112–276, 42 U.S.C. 14925.

■ 2. Revise the heading for part 96 to read as set forth above.

■ 3. Revise § 96.1 to read as follows:

§ 96.1 Purpose.

This part provides for the accreditation and approval of agencies and persons pursuant to the Intercountry Adoption Act of 2000 (42 U.S.C. 14901–14954, Pub. L. 106–279,) and the Intercountry Adoption Universal Accreditation Act of 2012 (42 U.S.C. 14925, Pub. L. 112–276). Subpart B of this part establishes the procedures for the selection and designation of accrediting entities to perform the accreditation and approval functions. Subparts C through H establish the general procedures and standards for accreditation and approval of agencies and persons (including renewal of accreditation or approval). Subparts I through M address the oversight of accredited or approved agencies and persons.

■ 4. Amend § 96.2 as follows:

■ a. Revise the definitions “Accredited agency”, “Accrediting entity”, “Adoption record”, “Approved home study”, “Approved person”, “Central Authority”;

■ b. Remove the definition of “Central Authority function”;

■ c. Revise the definitions of “Child welfare services” and “Exempted provider”;

■ d. Add the definitions of “INA” and “Intercountry adoption,”

■ e. Revise the definitions of “Legal services”, “Post-adoption”, “Primary provider”, “Public foreign authority”, “Secretary”, and “Supervised provider”;

■ f. Remove the definition of “Temporarily accredited agency”; and

■ g. Add the definition of “UAA”.

The revisions and additions read as follows:

§ 96.2 Definitions.

* * * * *

Accredited agency means an agency that has been accredited by an accrediting entity, in accordance with the standards in subpart F of this part, to provide adoption services in the United States in intercountry adoption cases.

Accrediting entity means an entity that has been designated by the Secretary to accredit agencies and/or to approve persons for purposes of providing adoption services in the

United States in intercountry adoption cases.

* * * * *

Adoption record means any record, information, or item related to a specific intercountry adoption of a child received or maintained by an agency, person, or public domestic authority, including, but not limited to, photographs, videos, correspondence, personal effects, medical and social information, and any other information about the child.

* * * * *

Approved home study means a review of the home environment of the child’s prospective adoptive parent(s) that has been:

(1) Completed by an accredited

agency; or

(2) Approved by an accredited agency.

Approved person means a person that has been approved, in accordance with the standards in subpart F of this part, by an accrediting entity to provide adoption services in the United States in intercountry adoption cases.

* * * * *

Central Authority means the entity designated as such under Article 6(1) of the Convention by any Convention country, or, in the case of the United States, the United States Department of State. In countries that are not Convention countries, *Central Authority* means the relevant “competent authority” as defined in this section.

* * * * *

Child welfare services means services, other than those defined as “adoption services” in this section, that are designed to promote and protect the well-being of a family or child. Such services include, but are not limited to, recruiting and identifying adoptive parent(s) in cases of disruption (but not assuming custody of the child), arranging or providing temporary foster care for a child in connection with an intercountry adoption or providing educational, social, cultural, medical, psychological assessment, mental health, or other health-related services for a child or family in an intercountry adoption case.

* * * * *

Exempted provider means a social work professional or organization that performs a home study on prospective adoptive parent(s) or a child background study (or both) in the United States in connection with an intercountry adoption (including any reports or updates), but that is not currently providing and has not previously provided any other adoption service in the case.

* * * * *

INA means the Immigration and Nationality Act (8 U.S.C. 1101 *et seq.*), as amended.

Intercountry adoption means a Convention adoption or the adoption of a child described in INA section 101(b)(1)(F).

* * * * *

Legal services means services, other than those defined in this section as “adoption services,” that relate to the provision of legal advice and information and to the drafting of legal instruments. Such services include, but are not limited to, drawing up contracts, powers of attorney, and other legal instruments; providing advice and counsel to adoptive parent(s) on completing DHS or Central Authority forms; and providing advice and counsel to accredited agencies, approved persons, or prospective adoptive parent(s) on how to comply with the Convention, the IAA, the UAA, and the regulations implementing the IAA or UAA.

* * * * *

Post-adoption means after an adoption; in cases in which an adoption occurs in a foreign country and is followed by a re-adoption in the United States, it means after the adoption in the foreign country.

* * * * *

Primary provider means the accredited agency or approved person that is identified pursuant to § 96.14 as responsible for ensuring that all six adoption services are provided and for supervising and being responsible for supervised providers where used.

* * * * *

Public foreign authority means an authority operated by a national or subnational government of a foreign country.

Secretary means the Secretary of State, the Assistant Secretary of State for Consular Affairs, or any other Department of State official exercising the Secretary of State’s authority under the Convention, the IAA, the UAA, or any regulations implementing the IAA or UAA, pursuant to a delegation of authority.

* * * * *

Supervised provider means any agency, person, or other non-governmental entity, including any foreign entity, regardless of whether it is called a facilitator, agent, attorney, or by any other name, that is providing one or more adoption services in an intercountry adoption case under the supervision and responsibility of an accredited agency or approved person that is acting as the primary provider in the case.

UAA means the Intercountry Adoption Universal Accreditation Act of 2012, (42 U.S.C. 14925, Pub. L. 112–276 (2012)).

§ 96.4 [Amended]

■ 5. Amend § 96.4 by removing the parenthetical phrase “(including temporary accreditation)” in paragraph (a) and removing the parenthetical phrase “(including temporarily accredited)” in paragraph (b).

■ 6. Amend § 96.6 by revising paragraphs (c), (d), (g) and (j) to read as follows:

§ 96.6 Performance criteria for designation as an accrediting entity.

* * * * *

(c) That it can monitor the performance of agencies it has accredited and persons it has approved (including their use of any supervised providers) to ensure their continued compliance with the Convention, the IAA, the UAA, and the regulations implementing the IAA or UAA;

(d) That it has the capacity to take appropriate adverse actions against agencies it has accredited and persons it has approved;

* * * * *

(g) That it has the capacity to conduct its accreditation and approval functions fairly and impartially;

* * * * *

(j) That it prohibits its employees or other individuals acting as site evaluators, including, but not limited to, volunteer site evaluators, from becoming employees or supervised providers of an agency or person for at least one year after they have evaluated such agency or person for accreditation or approval.

§ 96.7 [Amended]

■ 7. Amend § 96.7 as follows:

■ a. Remove the phrase “and/or temporary accreditation” in paragraph (a)(1);

■ b. Remove the phrase “, temporarily accredited agencies,” in paragraphs (a)(3), (a)(4) and (a)(7);

■ c. Remove both iterations of the phrase “, temporarily accredited agency,” in paragraph (a)(5);

■ d. Remove the term “Convention” and add in its place the term “intercountry adoption” in paragraph (a)(8); and

■ e. Remove the phrase “the regulations implementing the IAA” and add in its place the phrase “the UAA, the regulations implementing the IAA or UAA” in paragraph (c).

§ 96.8 [Amended]

■ 8. Amend § 96.8 as follows:

■ a. Remove the term “Convention” and add in its place the term “intercountry adoption” in paragraph (a)(1);

■ b. Remove both iterations of the term “Convention” in paragraph (b)(1);

■ c. Remove the phrase “full Convention” and “; and” and add a period at the end in paragraph (b)(2); and

■ d. Remove paragraph (b)(3).

§ 96.9 [Amended]

■ 9. Amend § 96.9 by removing both iterations of the phrase “, temporary accreditation,” in paragraph (b) and removing the phrase “, temporarily accredited agencies,” in paragraph (c).

§ 96.10 [Amended]

■ 10. Amend § 96.10 as follows:

■ a. Remove the phrase “the regulations implementing the IAA” and add in its place the phrase “the UAA, the regulations implementing the IAA or UAA” in paragraph (a);

■ b. Remove the phrase “or a temporarily accredited agency is substantially out of compliance with the standards in § 96.104” in paragraph (c)(1);

■ c. Remove the phrase “, temporarily accredited agencies,” in paragraph (c)(7).

■ 11. Amend § 96.12 by revising paragraphs (a) introductory text, (a)(1), (a)(3), and (c) to read as follows:

§ 96.12 Authorized adoption service providers.

(a) Except as provided in section 505(b) of the IAA (relating to transitional cases), and once the UAA becomes effective, except as provided in section 2(c) of the UAA (relating to transitional cases), an agency or person may not offer, provide, or facilitate the provision of any adoption service in the United States in connection with an intercountry adoption unless it is:

(1) An accredited agency or an approved person;

* * * * *

(3) An exempted provider, if the exempted provider’s home study or child background study will be reviewed and approved by an accredited agency pursuant to § 96.47(c) or § 96.53(b).

* * * * *

(c) Neither conferral nor maintenance of accreditation or approval, nor status as an exempted or supervised provider, nor status as a public domestic authority shall be construed to imply, warrant, or establish that, in any specific case, an adoption service has been provided consistently with the Convention, the IAA, the UAA, or the regulations

implementing the IAA or UAA.

Conferral and maintenance of accreditation or approval under this part establishes only that the accrediting entity has concluded, in accordance with the standards and procedures of this part, that the agency or person conducts adoption services in substantial compliance with the applicable standards set forth in this part; it is not a guarantee that in any specific case the accredited agency or approved person is providing adoption services consistently with the Convention, the IAA, the UAA, the regulations implementing the IAA or UAA, or any other applicable law, whether Federal, State, or foreign. Neither the Secretary nor any accrediting entity shall be responsible for any acts of an accredited agency, approved person, exempted provider, supervised provider, or other entity providing services in connection with an intercountry adoption.

§ 96.13 [Amended]

■ 12. Amend § 96.13 as follows:

■ a. Remove the phrase “temporary accreditation,” and both iterations of the phrase “or temporarily accredited agency” in paragraph (a);

■ b. Remove the phrase “temporarily accredited,” in paragraphs (b), (c), and (d);

■ c. Remove the phrase “temporarily accredited, or” in paragraphs (b) and (c);

■ d. Remove the phrase “a Convention” and add in its place the phrase “an intercountry” each of the four times it appears in paragraphs (b) and (c); and

■ e. Remove the term “Convention” and add in its place the term “foreign” in two places in the first and second sentences of paragraph (d).

§ 96.14 [Amended]

■ 13. Amend § 96.14 as follows:

■ a. Remove the phrases “, temporary accreditation”, “, a temporarily accredited agency”, “temporarily accredited agency” and all three iterations of the phrase “, temporarily accredited agency,” in paragraph (a);

■ b. Remove the term “Convention case” and add in its place the term “intercountry adoption case” in paragraph (a);

■ c. Remove the term “Convention” and add in its place the term “foreign” in paragraphs (a)(2) through (4), (c), (c)(2), and (e);

■ d. Remove the phrase “, and § 96.104(g), in the case of temporarily accredited agencies” in paragraph (b);

■ e. Remove the phrase “, temporarily accredited agency,” in paragraphs (b)(1);

■ f. Remove the phrase “or temporarily accredited agency” in paragraph (b)(2); and

■ g. Remove the phrase “, and § 96.104(g) of subpart N, in the case of temporarily accredited agencies” in paragraph (c).

§ 96.15 [Amended]

■ 14. Amend § 96.15 as follows:

- a. Remove both iterations of the term “Convention” and add in its place the term “foreign” in Example 1;
 - b. Remove the phrase “temporarily accredited,” in each place it occurs in Examples 1, 3, 4, 5, 6, 8, 9, 10, 11, and 12;
 - c. Remove the phrase “a Convention” and add in its place the phrase “an intercountry” in each place in Examples 2, 3, 4, 5, 6, and 7;
 - d. Remove the phrase “this Convention” and add in its place the phrase “this intercountry” in Example 3;
 - e. Remove the term “temporary accreditation,” in Examples 5, and 6;
 - f. Remove the term “Convention country” and add in its place the term “foreign country” in Examples 7, 8, and 11;
 - g. Add the phrase “or the UAA” after “requirements of the IAA” in Examples 8 and 9.
 - h. Remove the term “Convention Country” and add in its place the term “Foreign Country” in Examples 9 and 12;
 - i. Remove the term “Convention” and add in its place the term “intercountry” in Example 10; and
 - j. Remove the phrase “is eventually disrupted” and add in its place the phrase “eventually disrupts” in Example 10.
- 15. Revise § 96.16 to read as follows:

§ 96.16 Public domestic authorities.

Public domestic authorities are not required to become accredited to be able to provide adoption services in intercountry adoption cases, but must comply with the Convention, the IAA, the UAA, and other applicable law when providing services in an intercountry adoption case.

■ 16. Revise § 96.17 to read as follows:

§ 96.17 Effective date of accreditation and approval requirements.

The Convention entered into force for the United States on April 1, 2008. As of that date, the regulations in subpart C of this part govern Convention adoptions between the United States and Convention countries, and require agencies or persons providing adoption services on behalf of prospective adoptive parent(s) to comply with § 96.12 and applicable Federal regulations. The Secretary maintains for the public a current listing of

Convention countries. The effective date of the UAA is July 14, 2014. As of that date, consistent with the UAA, the regulations in subpart C of this part will govern adoptions of children described in INA § 101(b)(1)(F), and will require agencies or persons providing adoption services on behalf of prospective adoptive parent(s) in connection with a child described in section 101(b)(1)(F) to comply with § 96.12 and applicable Federal regulations.

■ 17. Revise § 96.18 to read as follows:

§ 96.18 Scope.

(a) Agencies are eligible to apply for “accreditation.” Persons are eligible to apply for “approval.” Applications for accreditation or approval will be processed in accordance with §§ 96.19 and 96.20.

(b) If an agency or person is reapplying for accreditation or approval following cancellation of its accreditation or approval by an accrediting entity or refusal by an accrediting entity to renew its accreditation or approval, it must comply with the procedures in § 96.78.

(c) If an agency or person that has been accredited or approved is seeking renewal, it must comply with the procedures in § 96.63.

§ 96.19 [Removed]

■ 18. Remove § 96.19.

§ 96.20 [Redesignated as § 96.19]

■ 19. Redesignated § 96.20 as § 96.19.

§ 96.19 [Amended]

■ 20. In newly redesignated § 96.19, remove the second sentence in paragraph (a).

§ 96.21 [Redesignated as § 96.20]

■ 21. Redesignate § 96.21 as § 96.20.

§ 96.21 [Reserved]

■ 22. Add reserved § 96.21.

■ 23. Revise § 96.23 to read as follows:

§ 96.23 Scope.

The provisions in this subpart govern the evaluation of agencies and persons for accreditation or approval.

§ 96.25 [Amended]

■ 24. Amend § 96.25 as follows:

- a. Add the phrase “and cases subject to the UAA” after the phrase “Convention adoption case files” in paragraph (b);
- b. Add “other” before the term “non-Convention cases” in paragraph (b);
- c. Add the phrase “not subject to the UAA” before the phrase “prior to their inspection by the accrediting entity.” in paragraph (b); and

■ d. Remove the phrase “, temporarily accredited agency,” in paragraph (c).

§ 96.27 [Amended]

■ 25. Amend § 96.27 as follows:

- a. Remove the term “Convention” in the last sentence of paragraph (c);
- b. Remove the phrase “temporarily accredited” in paragraph (d);
- c. Remove the phrase “and the IAA” and add in its place the phrase “, the IAA, and the UAA” in paragraphs (d) and (g);
- d. Remove the phrase “has had its temporary accreditation withdrawn,” in paragraph (e); and
- e. Remove the term “Convention cases” and add in its place the term “intercountry adoption cases” in paragraph (g).

Subpart F—Standards for Intercountry Adoption Accreditation and Approval

■ 26. Revise the Subpart F heading to read as set forth above.

■ 27. Revise § 96.29 to read as follows:

§ 96.29 Scope.

The provisions in this subpart provide the standards for accrediting agencies and approving persons.

§ 96.30 [Amended]

■ 28. Amend § 96.30 by removing the term “Convention” and adding in its place the term “foreign” in paragraph (d).

§ 96.31 [Amended]

■ 29. Amend § 96.31 by adding “qualifies” before the phrase “for nonprofit status” in paragraph (a).

§ 96.33 [Amended]

■ 30. Amend § 96.33 by removing both iterations of the term “Convention cases” and adding in their places the term “intercountry adoption cases” in paragraph (e) and removing the phrase “Convention-related” and adding in its place the phrase “intercountry adoption-related” in paragraph (g).

§ 96.37 [Amended]

■ 31. Amend § 96.37 as follows:

- a. Remove the phrase “a Convention adoption” and add in its place the phrase “an intercountry adoption” in paragraph (a);
- b. Remove the term “INA” in paragraph (f)(2); and
- c. Remove the citation “8 CFR 204.3(b)” and add in its place the citation “8 CFR 204.301” in paragraph (f)(2).

§ 96.38 [Amended]

■ 32. Amend § 96.38 as follows:

- a. Remove the phrase “the regulations implementing the IAA” and add in its place the phrase “the UAA, the regulations implementing the IAA or UAA” in paragraph (a)(1);
- b. Remove the phrase “adopted from a Convention country” and add in its place the phrase “described in INA 101(b)(1)(F) and 101(b)(1)(G)” in paragraph (a)(2);
- c. Remove the term “Convention country” and add in its place the term “foreign country” in paragraph (a)(3); and
- d. Remove the phrase “and the IAA” and add in its place the phrase “, the IAA, and the UAA” in paragraph (d).

§ 96.40 [Amended]

- 33. Amend § 96.40 as follows:
- a. Remove the term “a Convention adoption” and add in its place the term “an intercountry adoption” in paragraph (b);
- b. Remove the term “Convention country” and add in its place the term “country of origin” in paragraphs (b)(3), (5), and (6);
- c. Remove the term “Convention” before “court documents” in paragraph (b)(5);
- d. Remove the term “Convention countries” and add in its place the term “foreign countries” in paragraph (f); and
- e. Remove the term “Convention country” and add in its place the term “foreign country” in paragraphs (f), (g), and (g)(3).

§ 96.41 [Amended]

- 34. Amend § 96.41 by removing the phrase “or the regulations implementing the IAA” and adding in its place the phrase “the UAA, or the regulations implementing the IAA or UAA” in paragraph (b).

§ 96.42 [Amended]

- 35. Amend § 96.42 by removing the phrase “under the Convention” and adding in its place the phrase “in intercountry adoption cases” in paragraph (d).

§ 96.43 [Amended]

- 36. Amend § 96.43 as follows:
- a. Remove the term “intercountry” and add in its place the phrase “Convention and non-Convention” in paragraphs (b)(1) and (b)(2);
- b. Remove the phrase “in both Convention and non-Convention cases” in paragraphs (b)(1) and (b)(2);
- c. Remove the phrase “Convention country or other” and add in its place the term “foreign” in paragraph (b)(1)(i);
- d. Remove the phrase “, Convention country, or other” and add in its place the phrase “or foreign” in paragraphs (b)(1)(iii) and (b)(2)(iii);

- e. Remove the phrase “Convention country or other” and add in its place the term “foreign” in paragraph (b)(2)(ii);
- f. Remove the phrase “a Convention” and add in its place the phrase “an intercountry” in paragraphs (b)(3), (b)(4) and (b)(5);
- g. Remove the term “Convention” and add in its place the term “foreign” in paragraphs (b)(3)(i) and (b)(4)(i); and
- h. Remove the term “Convention adoptions” and add in its place the term “intercountry adoptions” in paragraph (b)(6).

§ 96.44 [Amended]

- 37. Amend § 96.44 by removing the term “Convention” and adding in its place the term “intercountry” in paragraph (b).

§ 96.46 [Amended]

- 38. Amend § 96.46 as follows:
- a. Remove the term “Convention” and add in its place the term “foreign” in the section heading, and in paragraphs (a), (a)(1), (a)(3), (a)(5), and (b); and
- b. Add the phrase “or the Convention’s principles of ensuring that intercountry adoptions take place in the best interests of children and preventing the abduction, exploitation, sale, or trafficking of children” after the phrase “germane to the Convention” in paragraph (a)(4).

§ 96.47 [Amended]

- 39. Amend § 96.47 as follows:
- a. Remove the citation “8 CFR 204.3(e)” and add in its place the citation “8 CFR 204.311” in paragraphs (a)(4), (b), and (c)(1);
- b. Remove both iterations of the phrase “or temporarily accredited agency” in paragraph (c); and
- c. Remove the citation “8 CFR 204.3(b)” and add in its place the citation “8 CFR 204.301” in paragraph (c)(2).

§ 96.48 [Amended]

- 40. Amend § 96.48 by removing the term “Convention” and adding in its place the term “foreign” in paragraph (b)(1) and removing the term “Convention” and adding in its place the term “intercountry” in paragraph (b)(8).

§ 96.49 [Amended]

- 41. Amend § 96.49 by removing the term “Convention” and adding in its place the term “foreign” in paragraphs (a), (d)(1), and (d)(2).

§ 96.50 [Amended]

- 42. Amend § 96.50 by removing both iterations of the term “Convention” and

adding in place of them the term “foreign” in paragraph (g) and adding the phrase “in Convention adoptions is” before the phrase “entered in compliance with” in paragraph (h)(1).

§ 96.52 [Amended]

- 43. Amend § 96.52 as follows:
- a. Remove the term “Convention” and add in its place the term “foreign” in paragraphs (a), (b), and (c);
- b. Remove the phrase “a Convention” and add in its place the phrase “an intercountry” in paragraph (e); and
- c. Remove the phrase “or any regulations implementing the IAA” and add in its place the phrase “the UAA, or any regulations implementing the IAA or UAA” in paragraph (e).
- 44. Revise the undesignated center heading above § 96.53 to read as follows:

* * * * *

Standards for Convention Cases in Which a Child Is Emigrating From the United States (Outgoing Cases)

* * * * *

§ 96.53 [Amended]

- 45. Amend § 96.53 by adding the term “Convention” before “cases” in the section heading and removing both iterations of the phrase “or temporarily accredited agency” in paragraph (b).

§ 96.54 [Amended]

- 46. Amend § 96.54 by adding the term “Convention” before the term “cases” in the section heading.

§ 96.55 [Amended]

- 47. Amend § 96.55 by adding the term “Convention” before the term “cases” in the section heading.
- 48. Revise § 96.57 to read as follows:

§ 96.57 Scope.

The provisions in this subpart establish the procedures for when the accrediting entity issues decisions on applications for accreditation or approval.

- 49. Revise § 96.58 to read as follows:

§ 96.58 Notification of accreditation and approval decisions.

(a) The accrediting entity must routinely inform applicants in writing of its accreditation and approval decisions—whether an application has been granted or denied—as those decisions are finalized. The accrediting entity must routinely provide this information to the Secretary in writing.

(b) The accrediting entity may, in its discretion, communicate with agencies and persons that have applied for accreditation or approval about the

status of their pending applications to afford them an opportunity to correct deficiencies that may hinder or prevent accreditation or approval.

■ 50. Revise § 96.60 to read as follows:

§ 96.60 Length of accreditation or approval period.

The accrediting entity will accredit or approve an agency or person for a period of four years. The accreditation or approval period will commence on the date that the agency or person is granted accreditation or approval.

§ 96.62 [Amended]

■ 51. Amend § 96.62 by removing the second sentence.

§ 96.63 [Amended]

■ 52. Amend § 96.63 by removing both iterations of the term “Convention” and adding in their places the term “intercountry adoption” in paragraph (a).

§ 96.65 [Amended]

■ 53. Amend § 96.65 by removing the second and third sentences.

§ 96.68 [Amended]

■ 54. Amend § 96.68 by removing the phrase “or the regulations implementing the IAA” and adding in its place the phrase “the UAA, or the regulations implementing the IAA or UAA” and removing the last sentence.

§ 96.69 [Amended]

■ 55. Amend § 96.69 by removing the term “Convention adoption” and adding in its place the term “intercountry adoption” in paragraphs (b) and (c).

§ 96.70 [Amended]

■ 56. Amend § 96.70 by removing the phrase “temporarily accredited agencies, and” and by adding the phrase “, and agencies temporarily accredited for one or two years after the Convention entered into force” after the term “approved persons” in paragraph (b)(1).

§ 96.71 [Amended]

■ 57. Amend § 96.71 by removing the phrase “or the regulations implementing the IAA” and adding in its place the phrase “the UAA, or the regulations implementing the IAA or UAA” in paragraph (b).

§ 96.74 [Amended]

■ 58. Amend § 96.74 by removing the second and third sentences.

§ 96.75 [Amended]

■ 59. Amend § 96.75 by adding “, the UAA,” after “IAA” in the introductory text and removing the term

“Convention” and adding in its place the term “foreign” in paragraph (e).

§ 96.77 [Amended]

■ 60. Amend § 96.77 by removing all six iterations of the term “Convention cases” and both iterations of the term “Convention adoption cases” adding in their places the term “intercountry adoption cases” in paragraphs (b) and (c).

§ 96.81 [Amended]

■ 61. Amend § 96.81 by removing the last two sentences.

§ 96.83 [Amended]

■ 62. Amend § 96.83 by removing the phrase “under the Convention” in paragraph (b)(3).

§ 96.87 [Amended]

■ 63. Amend § 96.87 by removing both iterations of the term “Convention cases” and both iterations of the term “Convention adoption cases” adding in their places the term “intercountry adoption cases”.

§ 96.90 [Amended]

■ 64. Amend § 96.90 by removing the second sentence.

§ 96.91 [Amended]

■ 65. Amend § 96.91 as follows:
 ■ a. Remove the phrase “Once the Convention has entered into force for the United States” in paragraphs (a) and (b);
 ■ b. Remove the phrase “withdrawal of temporary accreditation,” in paragraph (a)(3); and
 ■ c. Remove the phrase “a withdrawal of temporary accreditation,” in paragraph (b)(2).

§ 96.92 [Amended]

■ 66. Amend § 96.92 by removing the phrase “Once the Convention has entered into force for the United States” in the introductory text.

§ 96.93 [Amended]

■ 67. Amend § 96.93 as follows:
 ■ a. Remove the phrase “and any withdrawals of temporary accreditation” in paragraph (a)(3);
 ■ b. Remove the term “Convention” and add in its place the term “intercountry adoption” in paragraph (b)(2); and
 ■ c. Remove the phrase “or withdraws an agency’s temporary accreditation” in paragraph (c)(3).

Subpart N [Removed]

■ 68. Remove subpart N, consisting of §§ 96.95 through 96.111.

Dated: July 7, 2014.

Michele T. Bond,

Acting Assistant Secretary for Consular Affairs, U.S. Department of State.

[FR Doc. 2014–16294 Filed 7–11–14; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0545]

Drawbridge Operation Regulation; New Jersey Intracoastal Waterway (NJICW), at Atlantic City, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the US 40–322 (Albany Avenue) Bridge across Inside Thorofare, NJICW mile 70.0, at Atlantic City, NJ. The deviation is necessary to facilitate the 4th Annual Atlantic City Triathlon. The deviation allows the bridge to remain in the closed position to vessels requesting a bridge opening to ensure the participants’ safety and that there are no delays.

DATES: This deviation is effective from 6 a.m. to Noon on September 13 and 14, 2014.

ADDRESSES: The docket for this deviation [USCG–2014–0545] is available at <http://www.regulations.gov>. Type the docket number in the “Search” box and click “Search.” Click on the Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140, on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Kashanda Booker, Bridge Management Specialist, Fifth Coast Guard District, telephone (757) 398–6227, email Kashanda.l.booker@uscg.mil. If you have questions on reviewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Atlantic City Emergency Management Office has requested a temporary